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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,457	12/11/2003	Rick Baggenstoss	07117.105016	8796

7590 07/19/2007  
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EXAMINER
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AL AUBAIDI, RASHA S

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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07/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/733,457

**Applicant(s)**

BAGGENSTOSS ET AL.

**Examiner**

Rasha S. AL-Aubaidi

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This in response to amendment filed 05/15/2007. Claims 38-47 have been added. No claims have been canceled. Claims 1, 17, 20-21, 24, 27, 31 and 35 have been amended. Claims 1-47 are still pending in this application.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehler et al. (US PAT # 6,914,975) in view of McCormack (US PAT # 6,754,331).

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Regarding claims 1-2, Koehler teaches a computer-based method for managing delivery of performance interventions to agents in a contact center (see col. 2, lines 21-25) comprising: delivering performance interventions to at least one of the agents in the contact center at a rate (this reads on providing a training to an agent in the event of poor performance, see col. 1, lines 27-29.)

Koehler does not specifically teach determining a state of the contact center; and responsive to the determining step, adjusting the rate of delivering performance interventions.

However, McCormack teaches that a supervisor require information about agent performance in a call center. Based on the performance of agents in the call center supervisor will assign agents for training (see col. 1, lines 6-8, lines 43-45 and lines 61-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of determining the state of the contact center (which reads on the performance of the call center) and assign agents to training based on this state (performance), as taught by McCormack, into the Koehler system, in order to enhance the efficiency of the call center by providing a better customer service.

Claims 5, 9, 15, 17-18, 21-23, 27-29, 31-36 and 38-47 are rejected for the same reasons as discussed above with respect to claim 1.

Regarding claim 3, McCormack teaches adjusting the rate of delivering performance interventions on the basis of deviation between the monitored state and the state level (see col. 2, lines 28-55).

Regarding claims 4 and 25, McCormack teaches receiving the state from a component of the contact center (this reads on providing the performance information from the call center server as shown in Fig. 2 to the supervisor, see col. 1, lines 43-67).

For claim 6, the claimed feature of "delivering training in advance of a target completion time" is obvious. Obviously one can schedule the training to be delivered at any time desired.

The limitations of claims 7-8 are obvious and well known in the art. Claim 7 basically reads on determining the performance of the call center within certain period of time. One obviously can determine the performance at any desired interval time such as hourly, daily or weekly.

Claim 10 recites "reducing the rate of delivering performance interventions comprises terminating a performance intervention prior to completing delivery of the

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performance intervention". This is obvious, since if a supervisor decided that there is no need to assign agent (s) to training, then the training will not be delivered to the agent (s).

Claim 11 recites "the step of determining the state of the contact center comprises monitoring contact volume and handle time". See McCormack Fig. 3A and Fig. 4.

Regarding claims 12 and 30, McCormack teaches determining the state of the contact center comprises determining a performance of the contact center (see col. 1, lines 43-45).

Regarding claims 13, 26 and 37, McCormack teaches the step of determining the state of the contact center comprises determining at least one of a service level, an abandonment rate, a hold time, and a call volume (see Fig. 4 for example).

Claim 14 recite "the adjusting step further comprises increasing the rate of delivering performance interventions if the state is ~~a~~bove a predetermined level and decreasing the rate of delivering performance interventions if the state is below the predetermined level". This basically reads on the scenario of assigning a threshold to determine the lowest level of performance and the highest level of performance. Normally if the performance dropped below the lowest acceptable level, then training is

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required to improve the quality of the call center.

Claim 16 is rejected for the same reasons as discussed above with respect to claim 14.

Claim 19 limitations are obvious and well known in the art. One normally would provide training to the agent with the lowest performance in order to improve his/her skills.

Claim 20 is rejected for the same reasons as discussed above with respect to claim 14.

Claim 24 is rejected for the same reasons as discussed above with respect to claims 1 and 6.

#### ***Response to Arguments***

4. Applicant's arguments filed 05/15/2007 have been fully considered but they are not persuasive.

Regarding Applicant argument's for claim 44 (page 15 of the Remarks), the limitation of claim 44 basically reads on providing the required training to agents in a call center with certain time and as desired. Obviously, one can chose and adjust the time when to deliver the training to agents as desired. This is a design choice and it does not

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rise the invention to the level of patentability. Also, Applicant argues that McCormack does not disclose predicting a state of the contact center at a future time. The examiner respectfully disagrees with Applicant's argument for the following reasons: first, as shown in Figs. 5 and 6 McCormack deals with real time statistics as well as historical statistics. Thus, the limitations of "predicting a state of the contact center t a future time" is an inherent if it is not obvious feature in McCormack because it is a limitation that comes from the gathering previous statistics. Second, even for the sake of argument if McCormack does not teach or disclose about predicting state of the contact center at a future time, gathering the statistic information in real time and past time helps the call center to determine when the call center needs an improvements in performance.

Examiner believes that al other arguments are already addressed in the above rejection.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**RASHA S. AL-AUBAIDI**  
**PATENT EXAMINER**

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**07/06/2007**